

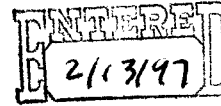
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Ms. Nancy Crowe  
Regulatory Policy Division  
Bureau of Export Administration  
U.S. Department of Commerce  
Main Commerce Building, Room 2705  
14th Street & Pennsylvania Avenue, N.W.  
Washington, DC 20230

Re: Encryption Items Transferred From the U.S. Munitions List to the Commerce Control List, 61 Fed. Reg. 68572 (December 30, 1996)

Dear Ms. Crowe:

At the request of our client, Nokia Telecommunications, Inc. ("Nokia"), we hereby submit this Comment in response to the Interim Rule in the above-captioned Notice issued by the Bureau of Export Administration (BXA) on December 30, 1996.

Nokia Telecommunications, Inc. is the U.S. affiliate of Nokia Oy of Finland, a major multinational enterprise that manufactures a wide range of telecommunications products, including cellular telephones and transmission equipment, in the USA and abroad. Among such equipment are so-called Base Transceiver Stations, also known as Base Stations, which carry signals between portable or mobile radiotelephones.

This Comment is limited to the amendment to Export Control Classification Number (ECCN) 5A002 in the Interim Rule. See amendment to Part 774 of the Export Administration Regulations (EAR) on pages 68586-87 of the Notice.

Reflecting the BXA's actual licensing practice, in the Interim Rule ECCN 5A002 was amended so it now reads as follows: "[ECCN] 5A002 does not control ... [p]ortable or mobile radiotelephones for civil use (e.g., for use with commercial civil cellular radiocommunications systems) that are not capable of end-to-end encryption." See the third Note, paragraph (d.) to ECCN 5A002.

This amendment explicitly confirms that exports of such radiotelephones would not "jeopardize [U.S.] foreign policy and national security interests" described in Executive Order 13026 of November 15, 1996 (61 Fed. Reg. 58767 (November 19, 1996)), except with respect to exports or reexports to the embargoed and other countries described in Parts 742, 744 and 746 of the EAR. By inference - but not by the explicit terms of the amendment - transmission links between such radiotelephones that also are not end-to-end encrypted

similarly would not jeopardize U.S. foreign policy and national security interests.

We believe that there may have been an oversight in the December 30 amendment of ECCN 5A002. The above-cited exception - perhaps inadvertently - excluded equipment such as Base Transceiver Stations (supporting the radiotelephones) that also are not capable of end-to-end encryption.

Within a cellular system, there are generally two broad classes of calls: 1) by a mobile cellular telephone to a land-based telephone; and 2) from a mobile cellular telephone to another mobile cellular telephone.

Some cellular systems, particularly the new digitally-formatted systems, now offer encryption on parts of the interconnect between telephones in each of these cases. In this market most product lines limit encryption to the radio portion of the call to defeat interception by scanners in the vicinity of the telephones. The common industry practice, even for the new digitally-formatted systems, is to route nonencrypted speech through a switch devoted to the cellular system for any part of the communication that relies on a mobile telephone.


Cellular system transmission equipment such as Base Transceiver Stations that are not capable of end-to-end encryption - but that offer limited encryption to the radio portion(s) of a telephone-to-telephone call and require nonencrypted landline connection to switch the call - should fall for export regulation purposes within the same class as the radiotelephones they support and that are not capable of end-to-end encryption.

We request that this apparent oversight be corrected and we suggest that the following language should be added to the current exception: "[ECCN] 5A002 does not control ... [p]ortable or mobile radiotelephones, or transceivers or other equipment supporting such radiotelephones, for civil use (e.g., for use with commercial civil cellular radiocommunications systems) that are not capable of end-to-end encryption."

If you have questions concerning this Comment or require further information, please contact the undersigned or Charles Weber of this office at the above telephone number and e-mail address.

Sincerely,

MURPHY & WEBER

By: 

Terence Murphy  
Counsel to Nokia Telecommunications, Inc.